



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Saliba Construction Company, Inc.;
Slingluff Construction Company, Inc.
File: B-230215, B-230215.2
Date: March 3, 1988

DIGEST

1. Whether firm is eligible for assistance under section 8(a) of the Small Business Act is a matter for determination by the Small Business Administration, and is not subject to review by the General Accounting Office.
2. The General Accounting Office will not review the Small Business Administration's compliance with its own internal guidelines for the Small Business Act's section 8(a) program absent a showing of possible fraud or bad faith on the part of government officials.

DECISION

Saliba Construction Company, Inc., and Slingluff Construction Company, Inc., protest the proposed award of a contract to W. M. Marable, Inc., for construction of an Army aviation museum at Fort Rucker, Alabama, under section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1982). Section 8(a) authorizes the Small Business Administration (SBA) to enter into contracts with government agencies and to arrange for the performance of such contracts by letting subcontracts to socially and economically disadvantaged small businesses.

We dismiss the protests.

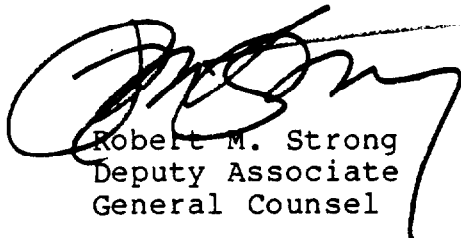
Saliba and Slingluff protest that Marable is not an eligible 8(a) firm because it is not economically disadvantaged. According to the protesters, Marable has been issued a "U" classification on its contractor's license by Alabama, and a net-worth of over \$300,000 has to be maintained to keep a "U" classification. The protesters doubt that a firm which has had a net-worth of over \$300,000 can be economically disadvantaged.

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Whether a firm is eligible for assistance under section 8(a) of the Small Business Act is basically a matter for determination by the SBA and is not subject to review by our Office. Cassidy Cleaning, Inc., B-218641, June 24, 1985, 85-1 CPD ¶ 717. In any event, SBA's Standard Operating Procedure (SOP), dated April 27, 1987, provides that individuals having a net-worth of less than \$750,000 will be considered to be economically disadvantaged, absent a clear showing to the contrary.

Saliba and Slingluff also question whether SBA analyzed what impact the acceptance of the procurement for an 8(a) award would have on firms not in the 8(a) program.

SBA reports that it determined that acceptance of the procurement for an 8(a) award would not unduly impact the small business community. The Small Business Act affords the SBA and the contracting agencies broad discretion in selecting procurements for the section 8(a) program. T.A.M., Inc., B-224193, Sept. 26, 1986, 86-2 CPD ¶ 361. While the SBA's SOP does provide for SBA's making an impact assessment, the SOP represents internal SBA policies and guidelines, and we will not review SBA's compliance with those internal procedures absent a showing of possible fraud or bad faith. Groshelle Associates, B-225194.2, Dec. 23, 1986, 86-2 CPD ¶ 711. Since the protesters do not allege fraud or bad faith on the part of government officials, the protests are dismissed. MGL Construction, Inc., B-210766.2, Apr. 25, 1983, 83-1 CPD ¶ 454; 4 C.F.R. § 21.3(m) (1987).



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